

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
JEFF HATCH-MILLER
MIKE GLEASON
KRISTIN K. MAYES

AUG 10 2004

DOCKETED BY

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IN THE MATTER OF THE APPLICATION OF
THE CITY OF FLAGSTAFF TO CONSTRUCT A
GRADE-SEPARATED CROSSING OF THE
BURLINGTON NORTHERN AND SANTA FE
RAILWAY AT 4TH STREET IN THE CITY OF
FLAGSTAFF, COCONINO COUNTY, ARIZONA.

DOCKET NO. RR-02635B-04-0207⁰⁴³⁷DECISION NO. 67170OPINION AND ORDER

DATE OF HEARING: July 15, 2004
PLACE OF HEARING: Phoenix, Arizona
ADMINISTRATIVE LAW JUDGE: Marc E. Stern
APPEARANCES: Mr. Timothy Sabo, Staff Attorney, Legal
Division, on behalf of the Utilities Division of
the Arizona Corporation Commission.

BY THE COMMISSION:

On June 10, 2004, the City of Flagstaff ("City" or "Flagstaff") filed with the Arizona Corporation Commission ("Commission") a request for approval for the Burlington Northern and Santa Fe Railway Company ("Railroad") to construct a grade-separated crossing over the Railroad's tracks with the extension of 4th Street from the current intersection of Huntington/Industrial Drive to Route 66 in Flagstaff, Arizona ("Application").

On June 27, 2004, by Procedural Order, the Application was set for a hearing and the City was ordered to notify any interested party of the Application and the hearing.

On July 6, 2004, the City filed certification that notice had been provided pursuant to the terms of the Procedural Order.

On July 15, 2004, a full public hearing was held before a duly authorized Administrative Law Judge of the Commission at its offices in Phoenix, Arizona. At the conclusion of the hearing, the matter was taken under advisement pending submission of a Recommended Opinion and Order to the

1 Commission.

2 * * * * *

3 Having considered the entire record herein and being fully advised in the premises, the
4 Commission finds, concludes, and orders that:

5 **FINDINGS OF FACT**

6 1. On June 10, 2004, Flagstaff filed an Application in which it requested an Opinion and
7 Order from the Commission to approve an agreement between the City and the Railroad for the
8 construction on 4th Street of a new grade-separated crossing over the tracks of the Railroad between
9 4th Street's intersections with Huntington/Industrial Drive and Route 66.

10 2. On July 6, 2004, ADOT filed certification that notice had been provided by certified
11 U.S. mail of the Application and hearing thereon.

12 3. A hearing was held as scheduled on July 15, 2004.

13 4. The Application provides for the construction of a new overpass on 4th Street
14 extending above and over the tracks of the Railroad between the intersection of Huntington/Industrial
15 Drive and Route 66 in Flagstaff. When the overpass is completed, it will be the fourth grade-
16 separated crossing in the area and provide for better traffic movement.

17 5. Staff testified that the cost for the construction of the overpass as provided in the
18 Application will be funded by Flagstaff.

19 6. After construction of the grade-separated crossing, the 4th Street roadway overpass
20 will be maintained by the City.

21 7. Staff has recommended that the Application be approved.

22 **CONCLUSIONS OF LAW**

23 1. The Commission has jurisdiction over the parties and over the subject matter of the
24 Application pursuant to Article XV of the Arizona Constitution and A.R.S. §§ 40-336, 40-337 and
25 40-337.01.

26 2. Notice of the Application was provided in accordance with the law.

27 3. The construction of the grade-separated crossing on 4th Street between its intersection
28 of Huntington/Industrial Drive and Route 66 in Flagstaff, Arizona, is necessary for the public's

convenience and safety.

4. The Application should be approved as recommended by Staff.





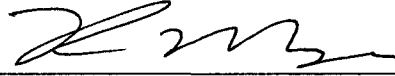
ORDER

IT IS THEREFORE ORDERED that the City of Flagstaff's Application is hereby granted.

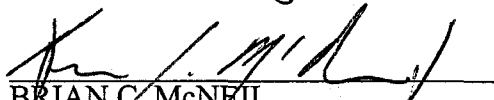
IT IS FURTHER ORDERED that the Burlington Northern and Santa Fe Railway Company shall notify the Commission, in writing, within ten days of both the commencement and the completion of the grade-separated crossing, pursuant to A.A.C. R14-5-104.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

		
CHAIRMAN	COMMISSIONER	COMMISSIONER
		
COMMISSIONER	COMMISSIONER	

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 10th day of August, 2004.


BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT _____

DISSENT _____

MES:mlj

1 SERVICE LIST FOR:

BURLINGTON NORTHERN AND SANTA FE
RAILWAY COMPANY

3 DOCKET NO.:

RR-02635B-04-⁰⁴³⁷~~0207~~

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